

Senate File 2199 - Reprinted

SENATE FILE 2199
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SSB 3133)

(As Amended and Passed by the Senate February 15, 2010)

A BILL FOR

1 An Act relating to the collection of the use tax on
2 manufactured housing, the licensing of manufactured home
3 retailers, amending statutory references to certain types of
4 home dealers, establishing titling procedures for certain
5 manufactured and mobile homes, making penalties applicable,
6 and including effective date provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 103A.55, subsection 1, Code 2009, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* Failing to comply with the requirements
4 of section 423.26A relating to the collection of use tax.

5 Sec. 2. Section 312.1, subsection 1, paragraph d, Code 2009,
6 is amended to read as follows:

7 *d.* Revenue derived from the use tax collected under
8 ~~section~~ sections 423.26 and 423.26A, to the extent provided
9 under section 321.145, subsection 2.

10 Sec. 3. Section 321.20, subsection 1, paragraph e, Code
11 2009, is amended to read as follows:

12 *e.* The amount of the fee for new registration to be paid
13 under section 321.105A, ~~or~~ the amount of tax to be paid under
14 section 423.26, subsection 1, or the amount of tax to be paid
15 under section 423.26A.

16 Sec. 4. Section 331.557, subsection 3, Code 2009, is amended
17 to read as follows:

18 3. Collect and forward the use tax on vehicles subject
19 only to a certificate of title and on manufactured housing as
20 provided in section 423.14, ~~and~~ section 423.26, subsection 1,
21 and section 423.26A.

22 Sec. 5. Section 423.14, subsection 2, paragraph a, Code
23 2009, is amended to read as follows:

24 *a.* The tax upon the use of all vehicles subject only to the
25 issuance of a certificate of title ~~or the tax upon the use of~~
26 ~~manufactured housing~~ shall be collected by the county treasurer
27 or the state department of transportation pursuant to section
28 423.26, subsection 1. The county treasurer shall retain one
29 dollar from each tax payment collected, to be credited to the
30 county general fund.

31 Sec. 6. Section 423.16, subsection 1, Code 2009, is amended
32 to read as follows:

33 1. The retail sale or transfer of watercraft, modular
34 homes, ~~manufactured housing~~, or mobile homes, and the retail
35 sale, excluding lease or rental, of motor vehicles, trailers,

1 semitrailers, or aircraft that do not qualify as transportation
2 equipment, as defined in section 423.15, subsection 3.

3 Sec. 7. Section 423.26, subsection 1, paragraph a, Code
4 2009, is amended to read as follows:

5 a. The use tax imposed upon the use of vehicles subject
6 only to the issuance of a certificate of title ~~or imposed upon~~
7 ~~the use of manufactured housing~~ shall be paid by the owner
8 of the vehicle ~~or of the manufactured housing~~ to the county
9 treasurer or the state department of transportation from whom
10 the certificate of title is obtained. A certificate of title
11 shall not be issued until the tax has been paid. The county
12 treasurer or the state department of transportation shall
13 require every applicant for a certificate of title to supply
14 information as the county treasurer or the director deems
15 necessary as to the time of purchase, the purchase price,
16 ~~installed purchase price,~~ and other information relative to the
17 purchase of the vehicle ~~or manufactured housing~~. On or before
18 the tenth day of each month, the county treasurer or the state
19 department of transportation shall remit to the department the
20 amount of the taxes collected during the preceding month.

21 Sec. 8. NEW SECTION. **423.26A Manufactured housing —**
22 **collection of use tax — certificate of title.**

23 1. Except as provided in subsection 3, the use tax imposed
24 upon the use of manufactured housing shall be paid by the owner
25 of the manufactured housing to the manufactured home retailer
26 licensed under chapter 103A. The owner of the manufactured
27 housing shall also provide to the manufactured home retailer
28 all information necessary to complete and submit an application
29 for a certificate of title.

30 2. Use tax collected by the manufactured home retailer shall
31 be forwarded to the county treasurer or the state department of
32 transportation. The county treasurer shall retain one dollar
33 from each tax payment collected by a manufactured home retailer
34 and paid to the county treasurer, to be credited to the county
35 general fund. The manufactured home retailer shall submit an

1 application for certificate of title on behalf of the owner of
2 the manufactured housing.

3 3. The use tax imposed upon the use of manufactured housing
4 brought into the state of Iowa which has not previously been
5 subject to the tax imposed under this subchapter and for which
6 that tax has not been paid, shall be paid by the owner of the
7 manufactured housing to the county treasurer or the state
8 department of transportation from whom the certificate of title
9 is obtained. The owner of the manufactured housing shall
10 submit an application for a certificate of title. Section
11 423.22 shall apply in the case where the owner has paid tax in
12 another state.

13 4. The county treasurer or the state department of
14 transportation shall require every application for a
15 certificate of title to include information as the county
16 treasurer or the director deems necessary as to the time of
17 purchase, the purchase price, installed purchase price, and
18 other information relative to the purchase of the manufactured
19 housing.

20 5. A certificate of title shall not be issued until the tax
21 has been paid. A certificate of title shall be delivered to
22 the owner of the manufactured housing by the county treasurer
23 or state department of transportation who received the use tax.

24 6. On or before the tenth day of each month, the county
25 treasurer or the state department of transportation shall remit
26 to the department the amount of the taxes collected during the
27 preceding month.

28 7. A person who willfully makes a false statement in regard
29 to taxation under this section is guilty of a fraudulent
30 practice. A person who willfully makes a false statement in
31 regard to taxation under this section with the intent to evade
32 the payment of tax shall be assessed a penalty of seventy-five
33 percent of the amount of tax unpaid and required to be paid.

34 Sec. 9. Section 423.36, subsection 8, paragraph b,
35 subparagraph (2), Code 2009, is amended to read as follows:

1 (2) Taxes imposed under section 423.26, section
2 423.26A, and chapter 423C.

3 Sec. 10. Section 423.43, subsection 2, Code 2009, is amended
4 to read as follows:

5 2. All revenue derived from the use tax imposed pursuant
6 to ~~section~~ sections 423.26 and 423.26A shall be credited to
7 the statutory allocations fund created under section 321.145,
8 subsection 2.

9 Sec. 11. Section 435.23, Code Supplement 2009, is amended
10 to read as follows:

11 **435.23 Exemptions — prorating tax.**

12 The manufacturer's and ~~dealer's~~ retailer's inventory of
13 mobile homes, manufactured homes, or modular homes not in use
14 as a place of human habitation shall be exempt from the annual
15 tax. All travel trailers shall be exempt from this tax. The
16 homes and travel trailers in the inventory of manufacturers and
17 ~~dealers~~ retailers shall be exempt from personal property tax.
18 The homes coming into Iowa from out of state and located in a
19 manufactured home community or mobile home park shall be liable
20 for the tax computed pro rata to the nearest whole month, for
21 the time the home is actually situated in Iowa.

22 Sec. 12. Section 435.24, subsections 1 and 5, Code
23 Supplement 2009, are amended to read as follows:

24 1. The annual tax is due and payable to the county treasurer
25 on or after July 1 in each fiscal year and is collectible in
26 the same manner and at the same time as ordinary taxes as
27 provided in sections 445.36, 445.37, and 445.39. Interest
28 at the rate prescribed by law shall accrue on unpaid taxes.
29 Both installments of taxes may be paid at one time. The
30 September installment represents a tax period beginning July
31 1 and ending December 31. The March installment represents
32 a tax period beginning January 1 and ending June 30. A
33 mobile home, manufactured home, or modular home coming
34 into this state from outside the state, put in use from a
35 ~~dealer's~~ retailer's inventory, or put in use at any time

1 after July 1 or January 1, and located in a manufactured
2 home community or mobile home park, is subject to the taxes
3 prorated for the remaining unexpired months of the tax period,
4 but the purchaser is not required to pay the tax at the time
5 of purchase. Interest attaches the following April 1 for
6 taxes prorated on or after October 1. Interest attaches the
7 following October 1 for taxes prorated on or after April 1.
8 If the taxes are not paid, the county treasurer shall send a
9 statement of delinquent taxes as part of the notice of tax
10 sale as provided in section 446.9. The owner of a home who
11 sells the home between July 1 and December 31 and obtains a
12 tax clearance statement is responsible only for the September
13 tax payment and is not required to pay taxes for subsequent
14 tax periods. If the owner of a home located in a manufactured
15 home community or mobile home park sells the home, obtains a
16 tax clearance statement, and obtains a replacement home to be
17 located in a manufactured home community or mobile home park,
18 the owner shall not pay taxes under this chapter for the newly
19 acquired home for the same tax period that the owner has paid
20 taxes on the home sold. Interest for delinquent taxes shall
21 be calculated to the nearest whole dollar. In calculating
22 interest each fraction of a month shall be counted as an entire
23 month.

24 5. Before a home may be moved from its present site by any
25 person, a tax clearance statement in the name of the owner
26 must be obtained from the county treasurer of the county where
27 the present site is located certifying that taxes are not
28 owing under this section for previous years and that the taxes
29 have been paid for the current tax period. When a person
30 moves a home from real property to a ~~dealer's~~ retailer's stock
31 or to a manufactured home community or mobile home park, as
32 defined in section 435.1, a tax clearance statement shall be
33 applied for, and issued, from the county treasurer of the
34 county where the present site is located. When the home is
35 moved to another county in this state, the county treasurer

1 shall forward a copy of the tax clearance statement to the
2 county treasurer of the county in which the home is being
3 relocated. However, a tax clearance statement is not required
4 for a home in a manufacturer's or ~~dealer's~~ retailer's stock
5 which has not been used as a place for human habitation. A tax
6 clearance form is not required to move an abandoned home. A
7 tax clearance form is not required in eviction cases provided
8 the manufactured home community or mobile home park owner
9 or manager advises the county treasurer that the tenant is
10 being evicted. If a ~~dealer~~ retailer acquires a home from a
11 person other than a manufacturer, the person shall provide a
12 tax clearance statement in the name of the owner of record to
13 the ~~dealer~~ retailer. The tax clearance statement shall be
14 provided by the county treasurer in a method prescribed by the
15 department of transportation.

16 Sec. 13. NEW SECTION. **435.26B Affidavit in lieu of**
17 **surrender of certificate of title — manufactured and mobile**
18 **homes.**

19 1. If there is no record that a certificate of title has
20 been issued or surrendered for a manufactured home or mobile
21 home that is located outside a manufactured home community or
22 mobile home park, that has been converted to real estate by
23 being placed on a permanent foundation, and that is entered
24 on the tax rolls, the owner may effectuate a surrender of the
25 certificate of title by recording with the county recorder an
26 affidavit that includes all of the following:

27 a. The full legal name, Iowa driver's license number or Iowa
28 nonoperator's identification card number, bona fide residence,
29 and mailing address of the owner, and any other identification
30 information required by the state department of transportation.
31 If the owner is a firm, association, or corporation, the
32 affidavit shall contain the bona fide business address and
33 federal employer identification number of the owner.

34 b. A description of the manufactured or mobile home
35 including, insofar as the specified data may exist with respect

1 to a manufactured or mobile home, the manufacturer, model, year
2 of manufacture, and identification number or other assigned
3 number.

4 *c.* A statement of the affiant's title or ownership interest
5 and a statement of all liens, encumbrances, or security
6 interest upon the manufactured or mobile home, including the
7 names and mailing addresses of all persons having any such
8 liens, encumbrances, or security interests.

9 *d.* A statement of any facts or information known to
10 the affiant that could affect the validity of title or the
11 existence or validity of any lien, encumbrance, or security
12 interest on the manufactured or mobile home.

13 *e.* The name and address of the person from whom the
14 owner purchased or acquired the manufactured or mobile home,
15 including information related to the location and date of
16 purchase or acquisition.

17 *f.* The affidavit shall also include an attached written
18 opinion of an attorney licensed in this state that certifies
19 marketable record title to the manufactured or mobile home.

20 *g.* A statement that the manufactured or mobile home is
21 located outside a manufactured home community or mobile
22 home park, has been converted to real estate by being placed
23 on a permanent foundation, and has been entered on the tax
24 rolls. This statement shall be endorsed by the city or county
25 assessor, as applicable, and include the legal description of
26 the real property upon which the manufactured or mobile home
27 is situated.

28 *h.* A statement that the owner has made a diligent search
29 and inquiry but has been unable to locate and produce a
30 manufacturer's certificate of origin or a certificate of title
31 for the manufactured or mobile home and that the owner has
32 no knowledge that a certificate of title has previously been
33 issued or surrendered for the manufactured or mobile home.

34 *i.* (1) An endorsement by the state department of
35 transportation that the department has searched its records and

1 has no record of a certificate of title or a surrender of a
2 certificate of title for the manufactured or mobile home and
3 that the department has no record of any ownership interest
4 contrary to the ownership interest asserted by the affiant.
5 The endorsement shall also specify that the state department of
6 transportation is unable to identify any lien, encumbrance, or
7 security interest contrary to those specified by the affiant.

8 (2) The state department of transportation shall not
9 conduct any search of records or provide any endorsement until
10 the affidavit has been completed, executed, and endorsed
11 pursuant to paragraphs "a" through "h" and the affiant has paid
12 a fee not to exceed two hundred dollars. The state department
13 of transportation shall set the amount of the fee by rule.

14 (3) Following endorsement of the affidavit, the state
15 department of transportation shall return the affidavit to the
16 owner for recording.

17 (4) If the state department of transportation has endorsed
18 an affidavit, the department shall not issue a certificate
19 of title for the manufactured or mobile home unless the
20 manufactured or mobile home is reconverted under section
21 435.27.

22 2. Recording the affidavit with all necessary endorsements
23 and attachments shall establish the surrender of the
24 certificate of title.

25 3. After the surrender of the certificate of title under
26 this section, a conveyance of an interest in the manufactured
27 or mobile home shall not require a transfer of title if the
28 manufactured or mobile home remains located on the same real
29 property that is identified in the affidavit under subsection
30 2.

31 4. A foreclosure action on a manufactured or mobile home
32 for which the certificate of title was surrendered under this
33 section shall be conducted as a real estate foreclosure.

34 5. A tax lien and its priority shall not be modified as a
35 result of a surrender of title under this section.

1 6. The state department of transportation shall adopt rules
2 under chapter 17A to implement this section. The rules adopted
3 by the state department of transportation shall include a
4 standardized form for an affidavit required under this section.

5 Sec. 14. Section 435.28, Code 2009, is amended to read as
6 follows:

7 **435.28 County treasurer to notify assessor.**

8 Upon issuance of a certificate of title to a mobile home or
9 manufactured home which is not located in a manufactured home
10 community or mobile home park or ~~dealer's~~ retailer's inventory,
11 the county treasurer shall notify the assessor of the existence
12 of the home for tax assessment purposes.

13 Sec. 15. EFFECTIVE UPON ENACTMENT. This Act, being deemed
14 of immediate importance, takes effect upon enactment.